

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS**

**Call to Order:** By **CHAIRMAN AUBYN A. CURTISS**, on March 22, 2001  
at 3:00 P.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Aubyn A. Curtiss, Chairman (R)  
Rep. Tom Dell, Vice Chairman (D)  
Rep. Dee Brown (R)  
Rep. Roy Brown (R)  
Rep. Gary Forrester (D)  
Rep. Carol C. Juneau (D)  
Rep. Gary Matthews (D)  
Rep. Joe McKenney (R)  
Rep. Alan Olson (R)  
Rep. Trudi Schmidt (D)  
Rep. Bob Story (R)

**Members Excused:** Rep. Douglas Mood, Vice Chairman (R)

**Members Absent:** None.

**Staff Present:** Stacey Leitgeb, Committee Secretary  
Stephen Maly, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 491, 3/20/2001; SB 446,  
3/20/2001; HB 632, 3/20/2001;  
SB 243, 3/20/2001

#### **HEARING ON SB 491**

**Sponsor:** SEN. MIKE TAYLOR, SD 31, PROCTOR

**Proponents:** Russ Cravens, Qwest Communications  
John Fitzpatrick, Touch America  
Peter Ohman, Department of Commerce

**Mark Baker, AT&T**  
**Mike Barrett, Representing Self**  
**Ed Eaton, AARP**

**Opponents:**       None

**Opening Statement by Sponsor:**

**SEN. MIKE TAYLOR, SD 31**, said this bill was needed to help protect the senior citizens. This bill would assist in identification of the phone numbers and create some form of protection and enforcement. He said the intent of the bill was to prohibit telemarketers from blocking their telephone numbers and would allow a telephone subscriber to see who was calling them if they used caller ID. The biggest problem is identifying the telemarketer. He handed out amendments to strengthen the language of the bill **EXHIBIT(feh65a01)**.

**Proponents' Testimony:**

**Russ Cravens, Qwest Communications**, offered a second amendment **EXHIBIT(feh65a02)**. He stated the amendment would allow for technology to be associated with the telemarketing system and address the technical issues associated with it. He believed the bill would be at the forefront of trying to address this issue.

**John Fitzpatrick, Touch America**, said one of the most difficult problems with prosecuting telemarketing fraud or dealing with complaints about harassment was finding out who the party was on the other end of the line. One of the key pieces of information that could be used by an enforcement agency was the phone number, which would allow them to go to the phone company and go back through the circuit records and find out who was making the calls. It will be useful for agencies like the Department of Commerce that deal with telemarketing fraud.

**Peter Ohman, Department of Commerce**, said his department received approximately 100 calls last year from consumers who were concerned about calls being blocked. He supported the legislation and asked for a do pass recommendation.

**Mark Baker, AT&T**, supported the bill and the amendment offered by the sponsor.

**Mike Barrett, poet**, submitted written testimony **EXHIBIT(feh65a03)**.

**Ed Eaton, AARP**, supported this in opposition to telemarketing fraud.

**Questions from Committee Members and Responses:**

**REP. BOB STORY** asked if this was actually an issue warranting a bill to deal with. **SEN. TAYLOR** said there might only be 100 complaints to the Department of Commerce, but there were thousands of them to other authorities throughout the state. Not knowing who to contact might be one of the biggest problems.

**Closing by Sponsor:**

**SEN. TAYLOR** emphasized the importance of the bill and urged the committee to pass the legislation.

**HEARING ON SB 446**

**Sponsor:** **SEN. BOB DePRATU, SB 40, WHITFISH**

**Proponents:** **Warren McConkey, Flat Head Electric Cooperative, Energy Northwest Incorporated**  
**Mike Uda, Energy Northwest Incorporated**  
**Joe Unterweiner, Flathead Chamber of Commerce**  
**Chris Cukulski, Kalispell City Manager**

**Opponents:** **None**

**Opening Statement by Sponsor:**

**SEN. BOB DePRATU, SB 40, WHITFISH**, stated the bill dealt with enabling and is designed to address a situation in the northwestern portion of the state. He explained how Flathead Electric Cooperative (FEC) purchased Pacific Power and Light (PPL) and within the purchase agreements, FEC agreed the properties bought would still pay property tax as if they were a for-profit company. He said this bill would offer technical corrections to rules and give clarification for the rules for the PSC for assignment of jurisdiction. It would allow FEC to purchase power from Bonneville Administration for the section of properties owned by PPL at co-op rates. Without this bill they would have to pay a much higher rate. He said it would save the 13,000 customers affected, an approximately \$9 million rate increase.

**Proponents' Testimony:**

**Warren McConkey, Flat Head Electric Cooperative, Energy Northwest Incorporated**, submitted written testimony **EXHIBIT(feh65a04)**. He handed out a letter from the public service commission **EXHIBIT(feh65a05)**.

**Mike Uda, Energy Northwest Incorporated**, submitted written testimony **EXHIBIT(feh65a06)**.

**Joe Unterweiner, Flathead Chamber of Commerce**, felt this was a good bill for the Flathead area.

**Chris Cukulski, Kalispell City Manager**, said the consolidation of ENI was necessary for Columbia Falls, Whitefish, and Kalispell to be able to secure electric rates at the same rate as those in the other parts of the valley. He mentioned this was not at the detriment to anyone else in the state, but was specific to the area.

**Questions from Committee Members and Responses:**

**REP. ROY BROWN** asked if the PSC was in agreement with this. **Mr. Uda** replied the commissioner had indicated his support of the bill. He is the commissioner representing that particular district. As far as he knows, the PSC has not taken a position on the bill.

**REP. GARY FORRESTER** said he would have the same problem in Billings in about 15 months. It would be asking for a settlement for this area that would offer access to cost-based power. He asked why special treatment was given to some people while the rest of the people receive nothing. **Mr. Uda** explained the current price crunch affected many people in the Flathead Electric Co-Op's service area.

**REP. FORRESTER** asked for response to the concern he had expressed. **Mr. McConkey** said the contract Bonneville had signed was a contingency contract and would replace the current surplus contract.

**REP. FORRESTER** asked at what rate the cost-based power would be made available to the residents in the Flathead. **Mr. McConkey** said the current rate was 5.1 cents and they had adopted a rate increase of 33% which would go into effect on April 1. They were already feeling the crunch from this market-based pressure.

**REP. FORRESTER** asked if it was a delivered price. **Mr. McConkey** answered it was the total retail delivered price.

**REP. FORRESTER** asked what the difference was between what the MPC customers pay and what the FEC customers were paying. **Mr. McConkey** said the MPC rate was about 6.2 cents.

**REP. FORRESTER** if the sponsor had a plan to equalize these rates. **SEN. DePRATU** said by comparing this bill and the problem in Billings was like comparing apples and oranges, in as much, as the power is already committed to the Flathead and it was a matter of which rate they would pay for it. If they paid the higher rate it would not change the rate in Billings.

**REP. FORRESTER** commented how the bill seemed to offer a town above 3500 in population be allowed a cooperative to serve that community. **SEN. DePRATU** said SB 325 would address the problem statewide.

**REP. DEE BROWN** referred to the handout from Warren McConkey. She asked what percentage of the written surveys were reflected in the postcard that was inserted in the FEC bulletin. **Mr. McConkey** said the survey was mailed to all members of the cooperative.

**REP. BROWN** wanted someone to address the concerns associated with the purchase of FEC, and if the cooperative would be forced to pay at a higher rate through various costs. **Mr. McConkey** stated the consolidation had brought a variety of economic benefits in the elimination of duplication.

**REP. STORY** asked how long the payment, in lieu of the taxes contract, was for. **Mr. McConkey** said the contract was initiated at the time of the acquisition and was a five-year contract.

**REP. TOM DELL** asked if Bonneville Power had already committed to providing for this contract. **Mr. McConkey** said they had a signed contingency contract for 16 megawatts.

**REP. TRUDI SCHMIDT** asked why they didn't merge before. **Mr. McConkey** answered they didn't merge because they didn't have the legal authority to do so.

**REP. SCHMIDT** clarified other cooperatives could merge. **Mr. McConkey** said this bill would authorize a friendly acquisition by a cooperative to be submitted to the PSC for consideration.

**REP. FORRESTER** asked how many megawatts of power would be purchased from Bonneville and used on a residential basis plus how many megawatts to industrial customers. **Mr. McConkey** said

they were a total 180 megawatt, 40% industrial, 60% residential.

**REP. FORRESTER** wanted it clarified as to whether or not industrial customers could be dropped off like the industrial customers on the MPC system. **Mr. McConkey** said they had two close to dropping off, but they recently signed an extension contract with those for a six-year period.

**REP. FORRESTER** asked what the price per megawatt was for the industrial customers mentioned. **Mr. McConkey** believed it was somewhere between eight and nine cents.

**Closing by Sponsor:**

**SEN. DePRATU** felt this was an important bill. He explained the power was not additional power, it was already committed. It was simply a matter as to which price Bonneville would sell it for. He offered a background on the bill and emphasized the strength the amendment would give.

**HEARING ON HB 632**

**Sponsor:**     **REP. DOUG MOOD, HD 58, SEELEY LAKE**

**Proponents:**     **Mike Uda, Asarco**  
                         **Allan Payne, Ash Grove Cement**  
                         **Harley Harris, Asarco**  
                         **Patrick Judge, Montana Environmental Information**  
                         **Center, Renewable Northwest Project, Natural**  
                         **Resources Defense Council**  
                         **Greg Stricker, Montana Resources**  
                         **Russ Ritter, Montana Resources**  
                         **Steve Yeakel, Montana Resource Development Council**  
                         **Matthew Leow, Montana Public Interest Research**  
                         **Group**  
                         **Gene Fenderson, Montana Joint Heavy and Highway**  
                         **Committee**  
                         **Tom Daubert, Ash Grove Cement Company**  
                         **John Bloomquist, Montana Stock Growers Association**  
                         **Barry Hedrich, agricultural producer**  
                         **Patty Keebler, AFL-CIO**  
                         **Tammy Johnson, League of Rural Voters**  
                         **John Youngberg, Montana Farm Bureau**  
                         **Bob Stevens, Montana Grain Growers Association**  
                         **Cary Hegreberg, Montana Wood Products Association**  
                         **Mike Murphy, Montana Water Resources Association**

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**Donald Quander, Montana Large Customer Group**  
**Bob Vogel, Montana School Boards Association**  
**Gary Hughes, Asarco**  
**Dan Brimhall, American Chemet Corporation**

**Opponents:**        **Jerome Anderson, PPL**  
                         **Pat Clark, MPC**  
                         **Dennis Lopach, Northwestern Corporation**

**Opening Statement by Sponsor:**

**REP. DOUG MOOD, HD 58, SEELEY LAKE**, said the energy issue was a moving target and turned into a very complex issue. He stated this bill would give legislative recognition to what the PSC had stated publically as their role in the upcoming three or four years due to setting the rates for electricity. The bill also created lifeline rates. He believed that it was inevitable to try to control the price of electricity, there would be law suits. He handed out amendments to the bill **EXHIBIT (feh65a07)**.

**Proponents' Testimony:**

**Mike Uda, Asarco**, submitted written testimony **EXHIBIT (feh65a08)**.

**Allan Payne, Ash Grove Cement**, submitted written testimony **EXHIBIT (feh65a09)**.

**Harley Harris, Asarco**, said they anticipated this committee would soon be told this legislature was powerless to address the moving crisis due to the fifth amendment to the constitution. He added public utilities under the constitution do not have a protected property interest in any particular market crisis for any particular profit level. There was no constitutional right ever recognized for any business to be free of regulation. The fifth amendment provided a protection for utilities from confiscatory rates. He said HB 632 authorized the PSC to set rates based upon the well established standard already held to be constitutional, the reasonable rate standard. It gave the PSC power to allow public utilities the ability to recoup some of their reasonably incurred investments. He addressed how HB 632 would take away nothing and it give the PSC authority to take into account all of these considerations and set rates for future activities and future power sales that are not confiscatory.

***{Tape 1; Side B}***

**Patrick Judge, Montana Environmental Information Center,**  
**Renewable Northwest Project, Natural Resources Defense Council,**

said they were accomplishing strengthening the connection between Montana's generation resources and Montana consumers. This bill acknowledges competition should precede deregulation. He felt this was a major vehicle the legislature should consider to remedy the situation with deregulation. He would request there be an amendment to include a clean power product choice.

**Greg Stricker, Montana Resources,** said MRI operated a mine in Butte and was forced to suspend operations due to sky rocketing electricity prices. As a result, they laid off over 320 workers. This bill would strengthen needed legislative controls over Montana's electricity supply and ensure Montana's generation was obligated to Montanans first, and ensure it was provided at a reasonable price.

**Russ Ritter, Montana Resources,** said the loss of the mine in Butte was economically devastating to the community. Through purchases of supplies, wages, taxes, et cetera, the mine contributed huge amounts of money to Butte.

**Steve Yeakel, Montana Resource Development Council,** stated his organizations brought together public and private partnerships to provide services to truly needy Montanans in the states seven largest communities. Among those services were weatherization and emergency assistance on energy bills. He said this bill appeared to be a balanced reasonable solution and provided more stability and less volatility than other potential solutions which have been advanced. He asked the committee to keep in mind all those Montanans already experiencing severe financial and emotional distress as they deal with increased energy bills.

**Matthew Leow, Montana Public Interest Research Group,** liked the legislation because it reaffirmed PSC authority to set just and reasonable rates. He felt this was a very important aspect of protecting consumer interests. He questioned the necessity of adding to market considerations. Electricity was a necessity for all consumers. Affordable energy must be made available to homeowners, small businesses, and all Montanans.

**Gene Fenderson, Montana Joint Heavy and Highway Committee,** thought this was good legislation and it was needed.

**Tom Daubert, Ash Grove Cement Company,** said this was the only proposal promising to put MRI employees back to work and keep other industrials from having to shut down. He felt the bill would protect all Montana consumers during the transition to choice.



**John Bloomquist, Montana Stock Growers Association**, supported the bill. He said there were approximately 1200 farmers who irrigate on the MPC system facing problems come July 2002. Those consumers would be forced to look for other things to do. He felt it would have significant impact on agriculture across the state.

**Barry Hedrich, agricultural producer**, was concerned about the increase in rates being faced for electrical service. He said this would have a direct impact on many of the agricultural producers of all types of grain.

**Patty Keebler, AFL-CIO**, supported the bill.

**Tammy Johnson, League of Rural Voters**, supported the bill.

**John Youngberg, Montana Farm Bureau**, supported the bill.

**Bob Stevens, Montana Grain Growers Association**, support the bill.

**Cary Hegreberg, Montana Wood Products Association**, supported the bill.

**Mike Murphy, Montana Water Resources Association**, supported the bill.

**Donald Quander, Montana Large Customer Group**, thought this could be a vehicle to address the current crisis.

**Bob Vogel, Montana School Boards Association**, would like to see a clarification in the bill to make sure their 350 member school districts were covered under the bill.

**Gary Hughes, Asarco**, submitted a written testimony  
**EXHIBIT**(feh65a10).

**Dan Brimhall, American Chemet Corporation**, supported the bill.

**Opponents' Testimony:**

**Jerome Anderson, PPL**, submitted written testimony  
**EXHIBIT**(feh65a11).

**Pat Clark, MPC**, appreciated the attempt to search for a solution, but he opposed the bill. He felt the bill was one of a list of possible proposals that should be considered by the legislature. As a result of this bill, MPC, as the default supplier, would be exposed to lifeline rates for consumers. Lifeline rates would be

enacted on an emergency and an interim basis, plus this would result in the potential separation of rates that they collect from the cost of providing power supply. They were at risk of being forced to buy power at a high price and sell it at a lower price. MPC was stuck in the middle as the legal challenges with this bill. He didn't feel this bill was the best approach for a solution.

**Dennis Lopach, Northwestern Corporation**, said Northwestern was attempting to complete the purchase of MPC's transmission and distribution business in the state. They were concerned about the potential price squeeze this placed MPC in because of the risk they would be buying high and selling low. He would like the committee to focus on the lifeline rates and the potential legal issues.

**Questions from Committee Members and Responses:**

**REP. TOM DELL** was concerned about the political will of the PSC to address terms like "reasonable rates of return." **Mr. Uda** could not speak for the PSC. He believed they already have the authority essentially that was in the bill. He guessed they had the political will to get this done. For years the PSC has taken into account the cost of service and reasonable rate of returns.

**REP. DELL** said the market could be different from different perspectives. He would like to make sure the amendments were strengthened for the process to be followed. **Mr. Uda** said no California utility had filed for bankruptcy. As a practical matter, that was the last thing the generators wanted - the last thing they wanted was to have a federal bankruptcy judge looking over them. He added they couldn't afford to pay \$300 a megawatt hour, they were only able to pay \$30. Right now the creditors of those utilities were being very careful to not push them into bankruptcy. He also pointed out specific deadlines within the bill.

**REP. ROY BROWN** referred to page seven and wondered within 30 days of passing the bill would they be able to set a rate to include the cost of production, a reasonable rate of return and market considerations. **REP. MOOD** said it would be his expectation the rate would be set between 4 and 4.5.

**REP. BROWN** wondered if it was a year early from the current contract. **REP. MOOD** answered yes, that was correct.

**REP. ROY BROWN** referred to proponent's testimony and asked what were the expectations of PPL when they bought MPC. **Mr. Anderson**

explained the expectations were purchased with the property sold with the power at a market price.

**REP. BROWN** asked what the effect would be on business in Montana of high priced power. **Mr. Anderson** said people were seeing 10 - 20 cent prices for power. He thought there would be bids in for less than that, allowing for flexibility.

**REP. GARY FORRESTER** asked if the bill involved takings. **Mr. Uda** said it was because of the precise formula the courts used to determine takings. He added the formula was a reasonable investment to back expectation.

**REP. FORRESTER** asked if the price of their assets would be affected. **Mr. Uda** said the bill attempted to continue the relationship between those assets and MPC's customers. The effort was to try to continue the relationship. He added it wouldn't affect the sales being made in the market currently.

**REP. FORRESTER** asked where MPC would be if this bill were to pass. **Mr. Corcoran** said the situation would have MPC placed in the middle with regard to the powerhouse divide and the price of power and the rates that are set for consumers. They would have to deal with that financially. If MPC was placed at that risk, there will be a potential cost and revenue difference that could be fairly significant.

**REP. FORRESTER** referred to page seven of the bill and asked for some numbers. **Mr. Corcoran** said it would be in the four to six cent range.

**REP. FORRESTER** asked what kind of rates was MPC going to get back versus what were reasonable. **Mr. Corcoran** didn't have any information with regard to what they were anticipating the results to be.

**REP. TRUDI SCHMIDT** asked for an explanation on how the tax rates would work. **Mr. Uda** said the income would be derived from providing lifeline rates and there would be a reduction in the gross income reportable by the entity providing that power.

**REP. SCHMIDT** asked if this makes all tax payers bear the burden of these lifeline rates. **Mr. Uda** answered yes, it would, and added with the sense there was going to be revenue associated with those sales.

**REP. SCHMIDT** referred to page seven again and asked about the rates. **Mr. Uda** said the significance was simply, currently the commission would set cost-based rates, which had always been considered not to be confiscatory to public utilities.

**REP. SCHMIDT** referred to page thirteen and asked why was it retroactive. **Mr. Uda** didn't know the purpose of that. **Mr. Maly** explained those sections only apply to Section 1, which is the tax break.

**REP. SCHMIDT** asked why not just re-regulate? **Mr. Uda** said with appropriate guidance and with a recognition in the current market, the generation was needed.

**REP. BOB STORY** asked how does it affect the contract between PPL and MPC. **Mr. Uda** said it would expire on July 1, 2002. The interim rates would only apply to large customers.

**REP. STORY** wanted to work through the rule making authority and how they adopt the rates. He asked if Section 5 only applied to large customers. **Mr. Uda** answered yes.

**REP. STORY** referred to Section five and asked why not implement rates right away. **Mr. Uda** answered that was correct and added they have 180 days for implementation.

**REP. CAROL JUNEAU** clarified who the large customers on the lifeline rates would be. **Mr. Uda** gave examples of Ash Grove Cement Company, Montana Resources, Exxon, Cenex, and more.

**REP. JUNEAU** said that her understanding was they didn't know the lifeline rates. **Mr. Uda** agreed and said they didn't know what they would be yet.

**REP. STORY** asked who would provide the power to supply the lifeline rates. **Mr. Uda** said HB 632 currently contemplates that the obligation be placed on power companies and the purchaser of the generation assets. He didn't believe it distinguishes amongst them.

**REP. FORRESTER** wondered about supplying power. **Mr. Lopach** replied it was a little unclear, but he expected a court would be asked to enjoin the reach of regulation to the generator within a matter of months.

**REP. ALAN OLSON** asked for the price PPL used to determine the price they would pay for Colstrip and the other generating

facilities. **Mr. Anderson** said when the buy-back contract was entered into, the contract was entered into at a near-market price. **Mr. Corcoran** didn't know an answer to this question.

**REP. OLSON** mentioned it was probably purchased on two cent power. **Mr. Corcoran** said they would have had the power that they were selling to MPC under contract at 22.25 figured into their analysis for a four-year time period as part of their overall analysis.

**Closing by Sponsor:**

*{Tape 2; Side A}*

**REP. MOOD** said the magnitude of the amount of money involved in this was going to inevitably cause conversation of constitutionality to occur. It was also inevitable law suits were going to take place. He felt by next summer the supply of electricity was going to be even tighter than it was this past summer. He stated had we known in 1997 what the situation was going to be in the year 2001, there would have been a mechanism in SB 390 to have phased in deregulation in exactly the way that was being suggested in this bill. He thought they were looking at the potential for every business to just flat shut down, including small businesses to the agricultural industry.

**HEARING ON SB 243**

**Sponsor:**       **SEN. ROYAL JOHNSON, SD 5, BILLINGS**

**Proponents:**     **Pat Corcoran, MPC**  
                      **Jerome Anderson, PPL**  
                      **Patrick Judge, Montana Environmental Information**  
                                  **Center**  
                      **Dennis Lopach, Northwestern Corporation**  
                      **Mike Hanson, Northwestern Services Group**  
                      **Matthew Leow, Montana Public Interest Research**  
                                  **Group**  
                      **Holly Franz, Advanced Silicon, Materials, Inc.**  
                      **Debbie Smith, Natural Resources Defense Council,**  
                                  **Renewable Northwest Project**

**Opponents:**     **Gary Feland, PSC**  
                      **Max Logan, AARP**  
                      **Donald Quander, Montana Large Customer Group**  
                      **Chuck Notbohm, AARP**

**Dore Schwinden, Stillwater Mining**  
**Tom Daubert, Ash Grove Cement Company**  
**Tom Schneider**

**Opening Statement by Sponsor:**

**SEN. ROYAL JOHNSON, SD 5, BILLINGS,** said this bill started out as a good idea, but he is not sure exactly what it had disintegrated into. Amendments were presented **EXHIBIT(feh65a12)**. He shared the background of the bill and amendments. What he wanted to do was add a box of power at some price for a five-year period. He also wanted to have other companies, who had opted out and made a lot of money in the first 18-months of this situation, to come back. The Senate had a subcommittee work on this bill. He went through sections of the amendments and offered clarification. He felt this would be a cost-based contract and a fair situation plus a worthwhile bill.

**Proponents' Testimony:**

**Pat Corcoran, MPC,** submitted written testimony **EXHIBIT(feh65a13)**. He handed out amendments **EXHIBIT(feh65a14)** **EXHIBIT(feh65a15)**.

**Jerome Anderson, PPL,** submitted a written testimony **EXHIBIT(feh65a16)**.

**Patrick Judge, Montana Environmental Information Center,** felt the bill had a lot of benefit for small customers. It left them aggregated together so they could continue to work as a whole body in the market place. He said it would protect them against volatile and sky rocketing rates and they would hope the green power section in the bill would remain in the bill.

**Dennis Lopach, Northwestern Corporation,** concurs with previous testimony. He submitted testimony of **Mike Hanson, Northwestern Services Group,** who was unable to attend **EXHIBIT(feh65a17)**.

**Matthew Leow, Montana Public Interest Research Group,** submitted a written testimony **EXHIBIT(feh65a18)**.

**Holly Franz, Advanced Silicon, Materials, Inc.,** offered amendments **EXHIBIT(feh65a19)**. She said this was a very important part of the mix and needed to be kept alive so that the ideas in this bill were available for part of the solution.

**Debbie Smith, Natural Resources Defense Council, Renewable Northwest Project,** supported the bill for the narrow proposition

as the bill currently exists. She said their position was however the legislature decided to clarify the existing ambiguities in the law today, they needed to do something to allow customers to start to move forward to a choice that will be the cheapest and most sustainable power choice in the long term.

**Opponents' Testimony:**

**Gary Feland, PSC,** submitted written testimony **EXHIBIT(feh65a20)**.

**Max Logan, AARP,** submitted written testimony **EXHIBIT(feh65a21)**.

**Donald Quander, Montana Large Customer Group,** stated as the bill was currently written it would not make electricity more affordable in Montana to large or small customers, either now or after July 1, 2002. It essentially shifted risks from the utility to consumers without any corresponding benefit. It would actually require the large customers who have not yet chosen, to enter the market to decide within 60 days after passage whether to do so, and whether to assume additional financial obligations. He addressed how the bill would generally preclude PSC's ability to phase in choice, making any serious movement to transition before mid-2002 highly unlikely.

**Chuck Notbohm, AARP,** felt the bill was not acceptable. He offered concerns regarding low income families and seniors.

**Tom Daubert, Ash Grove Cement Company,** believed the amendments added from the Senate would have taken a good bill for many, and turned it into a nightmare for all, except the utilities. They would support the proposal to strip the amendments.

**Dore Schwinden, Stillwater Mining,** opposed the bill in its existing form. He said Stillwater Mining stayed under regulated rates through 2002. If the bill was enacted they would be forced to make the decision for the next five years without knowing what the prices were going to be.

**Tom Schneider** wasn't sure of his stance on the bill. He said there were a lot of concerns with the bill as drafted, and the amendments were an addition of bad things. The clear responsibility ought to rest with the default supplier, he referred to page eight, saying it really was a mess. He said striking the commission's responsibility to evaluate the existence of workable competition was something he would urge the committee to do. He added different customers have different characteristics.

**Questions from Committee Members and Responses:**

**REP. ROY BROWN** asked about PSC doing the work. **Mr. Feland** said things were being done and the default supplier had been named.

**REP. TOM DELL** didn't think the "reasonably expected minimal needs" over the course of the next year was a reassuring idea. He asked what was the justification for that. **Mr. Corcoran** said the obligation of the default supplier would be to provide the full power supply for all of its customers in order to ensure power was in place to begin serving customers July 1, 2002.

**REP. DELL** didn't want to see the default supplier end up holding the bag. **Mr. Corcoran** replied the process in this bill was to establish a process regulation. It was to have the PSC and the Consumer Council involved in the process from the beginning to the end, and to ensure there was a process working in a way that maximizes and ensures there would be solicitation of the bills for the best package to provide the best price for consumers going forward.

**REP. DELL** voiced his concerns pertaining to the language in the bill.

**REP. GARY FORRESTER** clarified the PSC didn't need SB 243, they can do everything that they need to do without this bill. **Mr. Feland** said under existing statutes they have the authority to do what was contained in the bill.

**REP. FORRESTER** asked what the committee needed to do. **Mr. Feland** deferred to **Denise Peterson, PSC Legal Staff**. She replied they don't need anything in SB 243 to accomplish the things needing to be done to ensure a default supply.

**REP. FORRESTER** asked what this committee needed to do. **Ms. Peterson** said they don't need any more authority to accomplish the purposes and to reach the goals of this bill.

**REP. FORRESTER** said SB 243 addressed the problems of residential customers default power supplier and also addressed industrial people. He clarified the PSC could do all of that without this bill. **Ms. Peterson** answered yes, they can.

**REP. FORRESTER** asked what they can do, outside of 243, for the large industrial customers that hasn't been done so far. **Ms. Peterson** replied the industrial customers' period has expired and they were not subject to the moratorium.



**REP. FORRESTER** asked if the PSC had any power to extend to the large industrial customers. **Ms. Peterson** believed the legislature needed to look at this issue outside of SB 243.

**REP. DOUG MOOD** assumed the language on the last page is what Mr. Judge was referring to as "green power." **Mr. Judge** answered yes, that was correct.

**REP. MOOD** said it was his understanding there was a technology out there which would make electric energy generate-able by wood. He asked if there was a reason it was not listed as a renewable resource. **Mr. Judge** said such technologies were not as environmentally preferred.

**REP. MOOD** asked if he would agree wood was a renewable resource. **Mr. Judge** said it is, as is hydro power. They like to characterize it as renewable, but not sustainable.

**Closing by Sponsor:**

**SEN. JOHNSON** thought the committee had before it one of the weightiest questions that will ever be in the legislative session. He said if they didn't take care of this issue there would be problems. He asked the PSC on several occasions if they had their own set of rules, and he didn't believe they had written a rule. He stated the PSC hadn't done what this bill would do, and if the PSC wanted to do the job then it should be allowed. He hadn't heard from AARP when this bill first went through and he was trying to avoid the price spike that would be effective if nothing was done with the situation.

HOUSE COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND  
TELECOMMUNICATIONS

March 22, 2001

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**ADJOURNMENT**

Adjournment: 5:00 P.M.

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REP. AUBYN A. CURTISS, Chairman

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CECILE M. TROPILA, Transcriptionist

AC/RL

**EXHIBIT (feh65aad)**